



# Guideline

## Sales Tax Hotels & Motels

**Cory Fong**  
Tax Commissioner

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### Gross Receipts are Taxable

Gross receipts from the rental of hotel, motel or tourist court accommodations including, but not limited to, meeting rooms, conference rooms, banquet rooms or swimming facilities are subject to sales tax, provided that the period for which the accommodations are rented is less than 30 consecutive days or one month. If a hotel or motel operates a bar, lounge, coffee shop, cafe, dining room or gift shop, those receipts also are subject to sales tax. Items sold at a newsstand, such as books and magazines, are subject to sales tax but newspapers are specifically exempt.

#### Lodging Sales Tax Rates

The 2003 North Dakota Legislative Assembly increased the state sales tax rate from 5 to 6 percent effective July 1, 2003 on the gross receipts from leasing or renting hotel, motel or tourist court accommodations for periods of fewer than 30 consecutive days *excluding* bed and breakfast accommodations. ***The gross receipts from leasing or renting bed and breakfast accommodations licensed under North Dakota Century Code ch. 23-09.1 remain subject to state tax at 5 percent.***

The 6 percent rate applies to leasing or renting sleeping rooms at hotels, motels and other tourist court accommodations. The sales tax rate on rental of conference rooms, banquet rooms, swimming pools and on sales of meals, beverages, gift shop items and other tangible personal property remains at the general state sales tax rate of 5 percent. The 6 percent rate is effective for all reporting periods beginning July 1, 2003, through periods ending June 30, 2007. The purpose of the rate increase is to generate funds for the promotion of the Lewis and Clark bicentennial celebration.

Under the new law, retailers leasing or renting sleeping rooms at hotels, motels and other tourist court accommodations may be collecting North Dakota sales tax at 3 different rates (excluding all local taxes.) Effective July 1, 2003, leasing or renting sleeping rooms is subject to 6 percent state sales tax; alcoholic beverage sales are subject to 7 percent sales tax; and all other taxable sales of products (e.g. prepared meals, soft drinks, gift shop items, candy, etc.) are taxed at 5 percent.

The additional 1 percent tax that applies to the gross receipts from leasing or renting sleeping rooms ***must be reported separately*** on your sales and use tax return. The 5 percent state tax due on room rentals continues to be reported with your other 5 percent sales, but the additional 1 percent sales tax is reported in the *Local Option Tax* section on page 2 of the Form ST on a line identified as ND Hotel/Motel. Please contact our office if you have any questions on how to report the additional 1 percent tax on the gross receipts from leasing or renting hotel, motel or tourist court accommodations.

### Accommodations Rented for Periods of Thirty Consecutive Days or More

Hotel, motel and tourist court accommodations occupied by the same individual or individuals for residential housing for periods of 30 or more consecutive days are exempt from tax.

To qualify for the exemption, each occupied room must include continuous residency by at least one specific individual for 30 or more consecutive days. Any break in the continuous occupancy of the room by that individual will result in a continuous occupancy of less than 30 consecutive days and will subject the accommodations to tax. In cases where an occupancy break results in one continuous occupancy period of 30 or more consecutive days and one continuous occupancy period of less than 30 consecutive days, the exemption applies only to the occupancy period of 30 or more consecutive days.

### Exempt Institutions

Under sales tax law, the United States government and its agencies as well as the state government and all of its political subdivisions are exempt from payment of sales tax.

**Individuals** who represent any of these agencies and who rent hotel or motel accommodations **are subject** to sales tax on accommodations; this includes federal employees, state employees, county and city employees and school groups. Accommodation for these individuals and groups are taxable **unless payment for the room is made directly by government warrant or government check**.

**Example:** If the local high school's basketball team travels to another North Dakota city where they rent hotel rooms for an overnight stay, sales tax applies to the rental charge for those rooms unless the accommodations are paid for by a school check.

Government employees, whether they are traveling for the Federal government, the state government or local government, are subject to sales tax when staying at a hotel or motel in North Dakota if they pay for their own lodging and then are reimbursed by the unit of government for which they work.

## Rooms Provided Free of Charge

Some hotel and motel operators include a room as part of the fee paid to entertainers who appear in the hotel or motel lounge. Despite the fact that it is included in the entertainer's pay, use tax is due on the value of that room. The value is considered to be the lowest commercial rate offered by that hotel or motel for that particular room.

## Non-Taxable Service

Services offered to customers, such as valet, laundry or babysitting are not taxable under North Dakota sales tax law.

## Telephone Charges

Under North Dakota tax law, charges for communication services (including telephone service) are subject to tax.

When guests at hotels and motels make intrastate telephone calls (interstate calls are exempt from state and local sales tax), applicable toll and tax charges are assessed by the phone company on the hotel's or motel's telephone bill. The hotel or motel then typically passes these toll and tax charges along to the guest making the call. In these cases, applicable sales tax will be paid by the hotel or motel to the phone company and it is not necessary to remit sales tax a second time on the actual expenses recovered from the guest.

If a hotel or motel adds any type of surcharge to a guest's telephone charges (over and above what is actually expensed by the telephone company), the surcharge is subject to sales tax. Such charges always are taxable as local communication charges, no exemption is provided for surcharges imposed on interstate telephone service.

Sales of prepaid telephone calling cards are sales of tangible personal property, and are subject to North Dakota sales tax.

## Items Subject to Sales or Use Tax

Hotels and motels are subject to sales or use tax on all equipment, supplies and materials purchased for use in the operation of the hotel and motel, including a bar, lounge, coffee shop or dining room. Examples of taxable items for each of these operations are set out in the paragraphs below. If these items are purchased from a supplier who holds a North Dakota sales and use tax permit, North Dakota sales tax should be paid directly to the supplier. If these items are purchased from a supplier who fails to charge North Dakota sales or use tax, the purchaser should include the cost of the purchases on the *Items Subject to Use Tax* line of the North Dakota sales and use tax return and remit the use tax due on those items directly to the Office of State Tax Commissioner.

**A. Hotels and Motels:** A hotel or motel must pay sales or use tax on the purchase price of all items of equipment including beds, furniture, television sets, room furnishings and other similar items. They also are responsible for sales or use tax on supplies furnished to guests or used in the operation of the hotel or motel. These supplies include items such as linens, bedding, towels, soap, toilet tissue, laundry bags, drinking glasses, stationery, matches, menus, keys, registration books, office supplies and cleaning supplies.

**B. Bars and Lounges:** All bar and lounge owners are required to pay sales or use tax on purchases of equipment and supplies for their own use. Examples of these items include: drinking glasses, cleaning compounds, equipment and furniture, coin-operated machines, chairs, cash registers and similar items.

**C. Restaurants and Cafes:** All restaurant or cafe owners must pay sales or use tax on items of equipment, materials or supplies purchased for personal or business use, with the exception of those food items which are expressly exempt from tax. Purchases of cleaning and sanitary supplies such as soap, cleansers, brooms, sweeping compounds, toilet tissue and light bulbs are subject to North Dakota sales tax.